

Direct Examination:
"Audio, Video, Disco"
 (I hear, I see, I learn)

What most prosecutors do for direct examination?



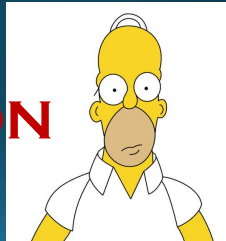
What are our goals?

- Present our theory of the case and evidence to support it – PERSUASIVELY
- Create advocates for our case in the deliberation room
- Combat defenses

Ensure the jury remembers it

What is the biggest cause of wrongful acquittals?

CONFUSION



The Power of Repetition

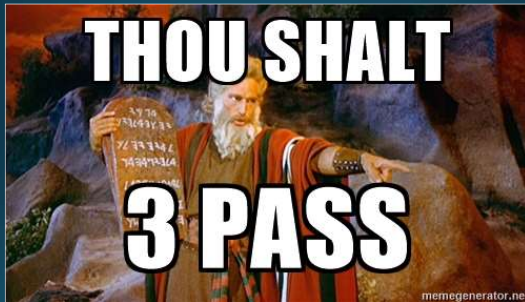
Repetition is the mother of
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Repetition is the mother of
Repetition is the mother of
Repetition is the mother of
Repetition is the mother of
Repetition is the mother of all learning



The 3-Pass Method of Direct Exam

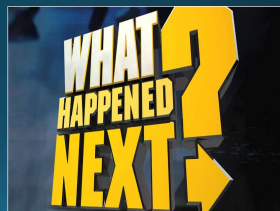


Our responsibility as prosecutors is to present information in a persuasive, memorable way that eliminates confusion and creates advocates for our case in the deliberation room



First Pass (explain)

- Allow the witness to tell the entire story of what they saw, heard, experienced, etc.
- Direct the witness when needed using open-ended questions that allow the witness to speak
- Do NOT use any exhibits, visuals, demonstrations, etc.



Training the Witness to give Narrative

Questions that naturally elicit narrative:

- "explain"
- "tell us about"
- "describe"
- "why?"
- "what was going through your mind?"
- "How did that feel?"
- What is the significance of?

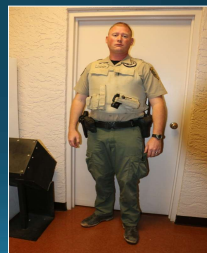
Training the Witness to give Narrative

Questions that are obstacles to narrative:

- closed questions. i.e - begin with: "did," "do," "does," "is," "was," etc.
- Interruptions of the witness
- Leading questions

The Importance of Narrative

- "I don't think anyone should take pride in taking another man's life. Regardless of the circumstances, he had a family, and that brings me sadness. It's not something I think should be celebrated or talked about"



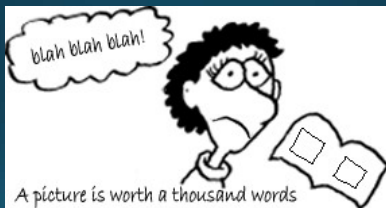
- "I felt forced to do this"

Signposting





Second Pass (show)

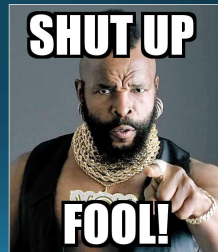


Third Pass (touch, feel, demonstrate)



Enemies of the 3-Pass Method

- LAWYERS
- SCRIPTS
- LACK OF WITNESS PREP
- EXHIBIT ORGANIZATION



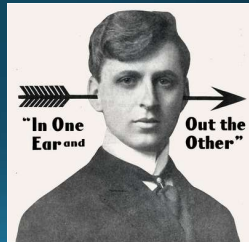
Direct Examination of Expert Witnesses

- <http://www.simpsonsworld.com/video/318806595512>

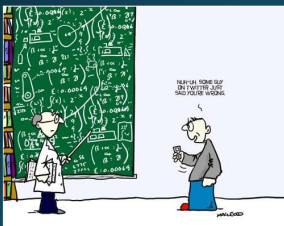


Direct Examination of Expert Witnesses

- In order to present this effectively, you must be a teacher; which means you must become an expert



Direct Examination of Expert Witnesses



- What is the significance of your expert in the case
- Is your scientific evidence being contested
- Does the Defense have their own expert

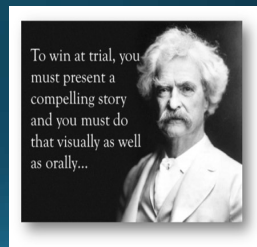
Re-Direct

"Nemo me impune lacessit"

(no one strikes me with impunity)

Re-Direct

- Punish the Defense for misleading the jury
- Look for whether Defense has opened the door to areas you didn't originally go into
- Address areas of confusion head on
 - i.e. "it was implied on cross-examination that you planted evidence; is that what happened?"



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